

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

vs.

Case No. 06-CV-10595
HON. GEORGE CARAM STEEH

PATRICK MCFADDEN,

Defendant.

_____/

ORDER DISMISSING SHOW CAUSE ORDER (#4),
GRANTING IN PART PLAINTIFF'S PETITION FOR SUBSTITUTED SERVICE (#6)
AND EXTENDING SUMMONS THROUGH SEPTEMBER 29, 2006

Plaintiff United States filed this lawsuit on February 10, 2006 seeking \$158,477.51 allegedly owing by defendant Patrick McFadden on certain loans. On April 10, 2006, the court denied without prejudice plaintiff's motion for substituted service following three failed attempts to personally serve McFadden. On August 3, 2006, plaintiff was ordered to show cause by August 23, 2006 why this action should not be dismissed for lack of prosecution. Plaintiff filed a timely response to the show cause order, and separate petition for substituted service, on August 9, 2006. Plaintiff proffers documentary evidence that service of process could not be accomplished by sending a summons and a copy of the complaint by certified mail, return receipt requested, to McFadden's home address of 650 Hidden Valley Club Drive, Apt. 113, Ann Arbor, Michigan, 48104. Plaintiff moves for substituted service in the form of mailing a summons and copy of the complaint to McFadden's Ann Arbor address, both by certified mail and first class mail, and by posting a summons and

copy of the complaint at the residence.

Service upon an individual situated within any federal judicial district may be effected in this district pursuant to the law of Michigan. Fed. R. Civ. P. 4(e)(1). Michigan law provides that, "[o]n a showing that service of process cannot reasonably be made as provided by this rule, the court may by order permit service of process to be made in any other manner reasonably calculated to give the defendant actual notice of the proceedings and an opportunity to be heard." M.C.R. 2.105(l)(1). M.C.R. 2.106 provides for service of process by publication. Pursuant to M.C.R. 2.106(C), defendant McFadden is hereby notified:

This action is pending in the United States District Court for the Eastern District of Michigan, in the United States Courthouse located at 231 West Lafayette, Detroit Michigan, 48226;

The plaintiff is the United States of America;

The defendant is Patrick McFadden;

Plaintiff United States is suing defendant Patrick McFadden to recover \$158,477.51 in debts owing to the United States;

Upon receiving notice of this action, defendant McFadden should answer or otherwise defend in this action as permitted under the Federal Rules of Civil Procedure and other applicable law;

Defendant McFadden's failure to answer or otherwise defend in this lawsuit may lead to entry of McFadden's default, and default judgment.

See M.C.R. 2.106(C). Defendant McFadden shall be notified of this action by publication as provided for in M.C.R. 2.106(D). Plaintiff shall send a copy of this order by first class regular and by registered or certified mail, return receipt requested, to defendant McFadden at 650 Hidden Valley Club Drive, Apt. 113, Ann Arbor, Michigan, 48104. M.C.R. 2.106(D)(2). Plaintiff shall also publish this notice once each week for three consecutive

weeks in a newspaper in Washtenaw County, Michigan. M.C.R. 2.106(D)(1). Good cause exists for extending the time for alternate service upon McFadden within the United States. Fed. R. Civ. P. 4(m). Accordingly,

Plaintiff's petition for substituted service is hereby GRANTED, IN PART, to the extent provided for herein. It is ORDERED that the summons be extended through September 29, 2006. The court's August 3, 2006 Order to Show Cause is hereby DISMISSED.

SO ORDERED.

s/George Caram Steeh
GEORGE CARAM STEEH
UNITED STATES DISTRICT JUDGE

Dated: August 16, 2006

CERTIFICATE OF SERVICE

Copies of this Order were served upon attorneys of record on August 16, 2006, by electronic and/or ordinary mail.

s/Josephine Chaffee
Deputy Clerk